


IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

AUG 21 2015

UNITED STATES OF AMERICA)
)
v.)
)
CHAD FITZGERALD MCCOY,)
)
Defendant.)
)

CASE NO. CR413-007
CLERK 
SO. DIST. OF GA


O R D E R

Before the Court is Defendant Chad Fitzgerald McCoy's Motion Seeking Sentence Credit Nunc Pro Tunc, in which Defendant seeks credit against his federal sentence for time he spent in state custody. (Doc. 773 at 2.) Defendant contends that "both [the] federal sentencing court and his state court expressed their desire for concurrent sentences." (Id.) While the Court recommended that Defendant receive credit against his federal sentence for all time served since entering into federal custody on February 4, 2013, Defendant received credit against his state sentence for that time. Pursuant to 18 U.S.C. § 3585(b), a defendant does not receive credit against his federal sentence for time spent in custody where that time was also credited against another sentence.¹ As a result, the Bureau of Prisons

¹ "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences . . . that has not been credited against another sentence." 18 U.S.C. § 3585(b) (emphasis added).

("BOP") did not honor the Court's recommendation because doing so would have run contrary to the express statutory language of § 3585(b). The Court can only recommend a defendant receive credit for time spent in federal custody: the BOP ultimately determines whether a defendant should receive credit. See United States v. Wilson, 503 U.S. 329 (1992) (holding that BOP determines credit issues, not district courts); United States v. Pineyro, 112 F.3d 43, 45 (2d Cir. 1997) (recognizing federal courts lack authority under § 3585 to order BOP to award credit). Accordingly, Defendant's motion must be **DENIED**.²

SO ORDERED this 21st day of August 2015.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

² In addition, Defendant's Motion for Custody Order (Doc. 631) is **DISMISSED AS MOOT**. Defendant is currently in federal custody.